

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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E.C. CONTRACTING, INC.,

Plaintiff,

-against-

D.F. PRAY, INC., FIDELITY AND
DEPOSIT COMPANY OF
MARYLAND, and ZURICH
AMERICAN INSURANCE
COMPANY,

Defendants.

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MEMORANDUM AND ORDER

Case No. 1:19-cv-06813-FB-VMS

BLOCK, Senior District Judge:

On January 12, 2022, Magistrate Judge Vera M. Scanlon issued a Report and Recommendation (“R&R”) recommending that defendant D.F. Pray’s motion for leave to file a third-party complaint against Maple Drake Austell Owner, LLC be denied. Magistrate Judge Scanlon’s R&R stated that failure to object within fourteen days of the date of the R&R waives the right to appeal. No objections were filed.

If clear notice has been given of the consequences of failing to object and there are no objections, the Court may adopt the R&R without *de novo* review. *See Smith v. Campbell*, 782 F.3d 93, 102 (2d Cir. 2015) (“Where parties receive clear notice of the consequences, failure to timely object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s

decision.”) (internal citations omitted). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000). No such error appears here.

Accordingly, the Court adopts the R&R without *de novo* review.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
March 24, 2022